

ORDINANCE NO. 2026-_____
AN ORDINANCE REGULATING CARBON SEQUESTRATION
IN WABASH COUNTY, INDIANA

WHEREAS, the Indiana Legislature has passed House Enrolled act 1209, along with I.C. 14-39-2 which regulates underground storage of carbon dioxide; and

WHEREAS, the Wabash County Commissioners previously adopted Zoning Ordinance pertaining to county zoning and land use controls (the “Ordinance”); and

WHEREAS, the County may lawfully regulate and restrict the use of land for trade, industry, residence or other purposes in accordance with a comprehensive plan and in designs to further the health, safety, convenience and welfare of its citizens as set forth in Indiana Code §36-7-4-201; and

WHEREAS, pursuant to Indiana Code § 36-1-3, et. seq. a government unit has all powers necessary and desirable in the conduct of its affairs, though not granted by statute, for the effective operation of government as to its local affairs; and

WHEREAS, the sequestration of carbon is a recent technological development, and the Wabash County Commissioners believe further study is needed to insure the health, safety and welfare of its citizens; and

WHEREAS, the County intends to establish a process for permitting and approving the use of land in the County for the sequestration of carbon dioxide that is not inconsistent with federal and state law;

WHEREAS, the adoption of an ordinance regulating carbon sequestration is necessary and appropriate to achieve and secure the benefits of these projects and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety and general welfare of the citizens of the County;

NOW, THEREFORE BE IT ORDAINED by the Wabash County Commissioners that the following standards are required for the approval and permitting of a Carbon Sequestration Project in Wabash County, Indiana.

EFFECTIVE DATE

This Ordinance shall be in effect after its final passage, approval and publication as required by law.

Should any section or provision of this Ordinance be declared invalid, void, preempted, or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid, void, preempted, or unconstitutional.

So ordained this day of , 2026.

BOARD OF COMMISSIONERS OF WABASH COUNTY

Tyler Niccum, President

Jeff Dawes

Cheryl Ross

Attest:

Shelly Bauccho, Auditor

Chapter 27

Carbon Capture and Sequestration

EXECUTIVE SUMMARY

This Ordinance has been promulgated to lawfully regulate and restrict the use of land in Wabash County for the sequestration of liquid carbon dioxide (Liquefied CO₂) to secure the public health and general welfare of its citizens.

27.1 DEFINITIONS.

For purposes of this Chapter, unless the context otherwise requires:

“Affected Person” means any Person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a Person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

“Applicant” means a Project Owner who applies for a Special Exception Permit for a Carbon Sequestration Project pursuant to this Ordinance.

“Application” means the documents and information an Applicant submits to the County for purposes of obtaining a Special Exception Permit as well as the related processes and procedures for considering the application pursuant to this Ordinance, Wabash County Zoning Ordinance and all applicable State and Federal requirements.

“Area of Review” means the proposed Storage Facility and the region surrounding the proposed Storage Facility of not less than one-fourth (1/4) mile measured by lateral distance.

“Board of Zoning Appeals” means the Wabash County Board of Zoning Appeals established pursuant to Indiana Code Chapter 36-7-4 900 series and Section 1.6.3 of the Wabash County Zoning Ordinance.

“Carbon Dioxide” means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules, including any substance added to the carbon dioxide to enable or improve the injection process.

“Carbon Dioxide Injection Well” means a wellhead that is used to inject carbon dioxide into a reservoir or pore space for carbon sequestration pursuant to a UIC Class VI permit.

“Carbon Sequestration Project” means any project that involves the underground storage of carbon dioxide in a reservoir or pore space pursuant to at least one (1) Carbon Dioxide Injection Well and all appurtenant facilities.

“County” or “the County” means Wabash County, Indiana.

“Department” means the Indiana Department of Natural Resources.

“EPA” means the United States Environmental Protection Agency.

“In-Service Date” is the date any carbon dioxide injection begins in any pore space located in the County.

“Landowner” means a Person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and includes a farm tenant.

“Occupied Structure” means a Building or Structure that has been inhabited or used for residential, commercial, industrial, or agricultural purposes at any time during the twelve (12) months preceding an application for a Special Exception pursuant to this Chapter.

“Person” means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity.

“Pore Space” means subsurface reservoirs, geologic formations, cavities, or voids that can be used as a storage space for carbon dioxide.

“Project Owner” means any Person engaged in or organized for the purpose of owning, operating, or controlling a Carbon Sequestration Project.

“Property Owner” means any Person identified by the records of the Wabash County Recorder that owns an interest in the real property, including surface or subsurface, under which a Carbon Sequestration Project, or any part of it, including any related facilities, may be located.

“Reclamation” means the restoration and repair of damaged real property, personal property, land or other areas under which carbon dioxide or carbon dioxide stream is injected or from where it is removed as close as reasonably practicable to the condition, contour, and vegetation that

existed prior to the construction or prior to the removal of the carbon dioxide or carbon dioxide stream, as applicable.

“Reclamation Cost” means the cost of Reclamation and includes the cost to restore or repair roads, bridges, or county property as well as the cost to restore or repair all real and personal property of Property Owners and Affected Persons.

“Reservoir” means a subsurface sedimentary stratum, formation, aquifer, cavity, or void that is naturally or artificially created for the use of, or is capable of being made suitable for, injecting and storing carbon dioxide.

“Special Exception” means a special exception or conditional use or use limitation authorized and approved by the Board of Zoning Appeals in the manner and according to the standards provided in the Wabash County Zoning Ordinance.

“Storage Facility” means the subsurface area consisting of the extent of a carbon dioxide plume which is required to be delineated on an approved UIC Class VI permit of a storage operator.

“Storage Operator” means any Person that operates a Carbon Sequestration Project.

“UIC Class VI permit” means a permit issued by the United States Environmental Protection Agency or a state under the Federal Safe Drinking Water Act’s Underground Injection Control program that allows: (1) a person; (2) a trust; (3) a corporation; or (4) another entity; to construct or operate a carbon dioxide injection well.

“Zoning Ordinance” or “the Zoning Ordinance” means the collection of land use and zoning regulations known as the Wabash County Zoning Ordinance, as provided and made effective in by Ordinance No. 2022-85-14, and any amendments adopted thereto.

27.2 APPLICABILITY

27.2.1 The approval of any Carbon Dioxide Injection Well within Wabash County shall require a Special Exception. All applicable requirements of the Wabash County Zoning Ordinance, Indiana law, and all relevant federal, state, and local regulations must be fully satisfied. An Improvement Location Permit may only be issued following approval of the Special Exception, and prior to any site work, well drilling, or construction associated with the Carbon Sequestration Project.

27.3 PERMITTED ZONING DISTRICTS

27.3.1 No person shall construct, install, place, or operate a Carbon Dioxide Injection Well without having fully complied with all provisions of this Ordinance. A

Carbon Dioxide Injection Well, including any other associated UIC Class VI injection wells, may be allowed only as a Special Exception in the Industrial (I) District.

27.3.2 In addition, no Carbon Dioxide Injection Well or any portion of a Carbon Sequestration Project shall be located within any designated special flood hazard area or within any wetland area as identified on the National Wetlands Inventory maps or other official wetland maps.

27.4 APPLICATION REQUIREMENTS

27.4.1 Prior to the construction, installation, placement, or operation of a Carbon Dioxide Injection Well, the Project Owner shall obtain written approval for the following:

- (1) a Special Exception from the Wabash County Board of Zoning Appeals to allow a Carbon Dioxide Injection Well;
- (2) Authorization from the Wabash County Board of Zoning Appeals for any variances anticipated on the Carbon Dioxide Injection Well and/or Carbon Sequestration Project as described below or in any other pertinent portion of the Zoning Ordinance; and
- (3) an Improvement Location Permit for any and all structures/wells related to the Carbon Dioxide Injection Well and/or Carbon Sequestration Project.

27.4.1.1 APPLICATION FOR A SPECIAL EXCEPTION.

The Special Exception application shall be filed with the County Plan Commission Office and shall include the following items:

- a. All information required for a Special Exception as described in this Zoning Ordinance, including all required unredacted forms, documents, reports, and supporting materials as prescribed by the County Plan Commission Director or his/her designee. No portion of the submittal shall be redacted, withheld, or otherwise obscured from public or staff review, unless required by law.
- b. A complete, unredacted copy of all federal documentation associated with the U.S. Environmental Protection Agency permit for a UIC Class VI injection well for carbon dioxide sequestration, application, supporting studies, and all submittals made to or received from the EPA, unless redaction is required by law.

- c. A valid carbon sequestration project permit issued by the Department pursuant to Indiana Code §§ 14-39-2-5 through -7, as those sections may be amended from time to time. The applicant shall provide a complete, unredacted copy of the permit application, all submittals, and project authorization documents issued by the Department for said permit, unless redaction is required by law. This shall also include a copy of any order issued by the Department for integration of pore space issued by the Department pursuant to Indiana Code 14-39-2-4(b).
- d. A map and list identifying the names and mailing addresses of all Affected Persons within Wabash County, including but not limited to all Property Owners located within the delineated Area of Review, pressure front, or any other area that may be impacted by the proposed Carbon Sequestration Project. The map and list shall also identify all Property Owners who have executed any independent agreement, option, or lease related to the Carbon Sequestration Project, and shall include a complete unredacted copy of each such agreement, option, or lease.
- e. A complete set of plans and specifications showing the dimensions, depths, and precise locations of all pore-injection sites, as well as the design, construction details, and locations of all associated facilities and above-ground structures related to the Carbon Sequestration Project.
- f. Drainage plan approved by the Wabash County Drainage Board or letter from the Wabash County Drainage Board confirming the project is exempt from requiring a drainage plan, as applicable.
- g. A comprehensive environmental monitoring and closure plan, including but not limited to a baseline water quality analysis for all private and public wells and surface waters within the delineated Area of Review (AoR); a shallow-water quality monitoring plan identifying sampling locations, parameters, and testing frequency; a subsurface leak-detection and soil-monitoring plan; and a post-injection site care and closure plan consistent with applicable EPA Class VI and IDEM requirements. All soil and water monitoring components shall be reviewed in coordination with the Wabash County Soil & Water Conservation District.
- h. The applicant shall submit complete copies of all seismic surveying reports (including raw data, processed data, and interpretive reports)

that were relied upon by the applicant in supporting the application for a UIC Class VI permit.

These seismic surveying reports shall be reviewed by an independent, qualified geophysical or geological consulting firm selected by the Wabash County Plan Commission. All costs associated with the selection, retention, and work performed by the County's independent consultant, including but not limited to review fees, travel expenses, and preparation of a written report, shall be borne solely by the applicant/project owner. The applicant shall deposit with the County, at the time of application submission, an initial review escrow in an amount established by the Plan Commission (as set forth in the adopted Fee Schedule), which may be replenished as necessary throughout the review process.

The County's independent consultant shall prepare a written report of its findings, which shall be provided to the Plan Commission, the Board of Zoning Appeals, and the applicant. The Board of Zoning Appeals may consider the consultant's findings and recommendations in determining whether the proposed Carbon Sequestration Project satisfies the standards for approval of a Special Exception under this Ordinance and the Wabash County Zoning Ordinance.

- i. An Emergency Response and Hazard Mitigation Plan as detailed in Section 27.9.
- j. A Road Use and Repair plan, which shall include:
 - 1. A list of all public roads to be used within the County during the construction, operation, maintenance and decommissioning of the Carbon Sequestration Project, including all culverts, bridges and crossings;
 - 2. A pre-construction baseline survey to determine existing public road conditions for assessing potential damage when repair or replacement is required;
 - 3. Any public road damage caused by the transport of any equipment or material utilized for the construction, operation, maintenance, and/or decommissioning of a Carbon Sequestration Project shall be repaired to the original condition identified during the pre-construction survey by the Project Owner or Storage Operator; and
 - 4. A surety bond or letter of credit in an amount to be determined by a professional highway engineer selected by the County to ensure that public road repairs are completed to the satisfaction of the

County, and the cost of such bond or letter of credit shall be paid by the Project Owner or Storage Operator and said bond or letter of credit shall remain in full force and effect throughout the life of the Carbon Sequestration Project.

- k. A copy of any impact study or any other study prepared pursuant to 170 IAC 4 et. seq.
- l. All applicable fees as outlined and required pursuant to the Wabash County Plan Commission fee schedule.

27.4.1.2 DISQUALIFICATION AND DENIAL OF APPLICATION

- a. The Plan Commission Director or designee may determine that any application required by this Chapter is incomplete or ineligible for review if the Applicant, the Project Owner, the proposed Storage Operator, or any affiliated owner of the project has:
 - i. any pending or otherwise unresolved violation of any environmental statute, rule, regulation, or order of any Federal, State, or local governing body; or
 - ii. any prior Carbon Sequestration Project, UIC Class VI well, or underground injection operation in any jurisdiction that resulted in confirmed leakage, migration outside the permitted storage reservoir, induced seismicity causing damage, or material non-compliance with monitoring or closure requirements.
- b. Any violation or disqualifying event described in subsection (a) above must be fully rectified and officially resolved by the issuing regulatory authority before a new Special Exception application from the same Applicant or Affiliated Parties will be accepted.
- c. A new Special Exception application from the same Applicant or Affiliated Parties shall not be accepted for review until the later of:
 - i. 90 days from the date the previous application was denied under this section, or
 - ii. the date on which all violations or disqualifying events have been officially resolved.
- d. Every Application shall include a sworn affidavit from the Applicant listing the full legal name and address of the Project Owner, Storage Operator, and all Persons with an ownership interest (direct or beneficial) of 5.00% or greater in project. Failure to fully and accurately

disclose this information shall result in immediate denial of the application and a 365-day bar on refiling by the same Applicant or Affiliated Parties.

- e. The Plan Commission Director, or his/her designee, is authorized to make the initial determination of disqualification under this section. Such determination shall be in writing and served on the Applicant by certified mail. The Applicant shall have ten (10) business days to provide written evidence rebutting the determination. If no rebuttal is filed or if the rebuttal evidence is deemed insufficient, the denial becomes final.

27.4.2 APPLICATION FOR A VARIANCE

27.4.2.1 An Applicant may submit an Application for Variance contemporaneously with, and as part of the same overall filing as, the Application for a Special Exception. A single Variance application may be used to request all variances sought for the Carbon Sequestration Project.

27.4.2.2 In determining whether to grant any requested variance, the Wabash County Board of Zoning Appeals shall apply the variance criteria set forth in Chapter 4.13 of the Wabash County Zoning Ordinance (or its successor provision) and in Indiana Code § 36-7-4-918.5, and shall make specific written findings addressing each statutory and ordinance criterion.

No separate filing fee shall be charged for the Application for Variance when it is submitted together with the Application for a Special Exception. The cost of processing the variance request(s) is included in the Special Exception application fee established in Section 27.5.1.

27.5 FEES.

27.5.1 The fee for the Special Exception shall be payable at the time of submission of the Application. The fee shall be as set forth in the adopted Fee Schedule. The Application fee shall be used to defray the costs associated with the Application for a Special Exception, including professional fees and expenses.

27.5.2 Fees for Improvement Location Permits shall be established and may be amended from time to time by the Wabash County Plan Commission and shall be set forth in the adopted Fee Schedule.

27.6 NOISE

- 27.6.1 Carbon Sequestration Project facilities, including any Carbon Dioxide Injection Well or any monitoring well, shall comply with the general noise standards of this Zoning Ordinance. In addition, the following noise limitations shall apply to the Carbon Sequestration Project, including any Carbon Dioxide Injection Well or any monitoring well.
- 27.6.2 A Carbon Sequestration Project may use sound-attenuating enclosures, mufflers, barriers, or other noise reduction measures to minimize off-site noise impacts.
- 27.6.3 Continuous operational noise generated by Carbon Sequestration Project facilities, including any Carbon Dioxide Injection Well or any monitoring well, shall not exceed the following sound levels when measured at the property line of the receiving property:

Daytime (7:00 AM – 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
60 dB(A)	50 dB(A)

- 27.6.4 Noise measurements shall be taken using a sound level meter meeting ANSI standards and measured at the property line of the receiving property.
- 27.6.5 Temporary noise associated with construction, drilling, well completion, maintenance, or emergency repair activities shall be exempt from these limits.

27.7 SETBACKS.

- 27.7.1 A Carbon Dioxide Injection Well shall not be constructed, used, sited, or located, in violation of the setback requirements listed below. All distances shall be measured from the center of the proposed Carbon Dioxide Injection Well to the portion of the existing use nearest the center of the proposed well. The minimum setback distances for a Carbon Dioxide Injection Well are:

- a. From any property line or the centerline of any roadway on the parcel, not less than 500 feet.

- b. From the town limits of an incorporated or unincorporated town or from an Occupied Structure, school building, church, nursing home, long-term care facility, or hospital, not less than 10,560 feet (two miles).
- c. From any portion of a parcel containing a public park or public recreation area, not less than 5280 feet.
- d. From an electric power generating facility with a nameplate capacity of 5MW or more, an electric transmission line operating at 69kV or higher, an electric transmission substation, a public drinking water treatment plant, or a public wastewater treatment plant, not less than 2640 feet.
- e. From a confined animal feeding operation or facility, not less than 1320 feet.
- f. From any active, abandoned, plugged, or presumed plugged oil or gas well as identified on the Department's records, not less than 26,400 feet (five miles).
- g. From another Carbon Dioxide Injection Well, not less than 132,000 feet (25 miles).

27.7.2 Any monitoring well associated with a Carbon Sequestration Project shall not be constructed, used, sited, or located, in violation of the setback requirements listed below. All distances shall be measured from the center of the proposed monitoring well to the portion of the existing use nearest the center of the proposed well. The minimum setback distances for a monitoring well are:

- a. From any property line or the centerline of any roadway on the parcel, not less than 200 feet.
- b. From any Occupied Structure, school building, church, nursing home, long-term care facility, or hospital, not less than 500 feet.

27.8 FENCING, SCREENING, LIGHTING

27.8.1 Fencing

A security fence of not less than 8 feet in height constructed from black opaque vinyl coated chain link shall be required in the immediate area of any and all injection and monitoring wells. All gates shall be locked at all times or when staff is not in fenced area. For purposes of this subsection, the "immediate area" means the area which lies within thirty (30) feet of the center of any Carbon Dioxide Injection Well or monitoring well associated with the Carbon Sequestration Project.

Razor wire shall be allowed but cannot be any less than 8 feet above natural grade.

All fencing shall be located a minimum of fifty (50) feet from the centerline of any Wabash County public highway, unless otherwise approved in writing by the Wabash County Highway Department.

Crash-rated bollards shall be installed inside the fenced area and spaced at a minimum of forty-eight (48) inches on center in accordance with applicable ASTM standards. Bollards shall be constructed of steel, a minimum of forty-eight (48) inches in height and four (4) inches in diameter, filled with concrete, and permanently anchored.

27.8.2 Screening.

All facilities shall be screened along the exterior perimeter of the required fence by vegetative screening designed to minimize visibility of the facility from adjacent parcels and public roadways.

Screening shall be at least the height of the required fencing and shall include a minimum of one (1) evergreen tree for every sixty (60) linear feet. A landscaped buffer yard of not less than fifty (50) feet in width shall be maintained outside the required fencing.

The Project Owner shall be responsible for ongoing maintenance and replacement of all required screening.

27.8.3 Lighting.

All exterior lighting shall be fully shielded and downward-directed to prevent light trespass beyond the property line. Lighting shall be limited to that reasonably necessary for maintenance, safety, and security.

Lighting poles shall not exceed twenty-five (25) feet in height.

27.9 EMERGENCY RESPONSE AND HAZARD MITIGATION PLANS

27.9.1 Plan Required

The Project Owner shall submit an Emergency Response and Hazard Mitigation Plan demonstrating compliance with all applicable federal and state regulations and detailing coordination with Wabash County emergency management, law enforcement, fire departments, and emergency medical services to address any surface release of carbon dioxide from the Carbon Sequestration Project or other emergency situations that may endanger public health and safety.

27.9.2 Immediate Area Defined

For purposes of this Section, “Immediate Area” means the area within two (2) miles of any Carbon Dioxide Injection Well or monitoring well associated with the Carbon Sequestration Project, unless a greater distance is required by federal or state regulation.

27.9.3 Plan Components

The Emergency Response and Hazard Mitigation Plan shall include:

1. A map, site plan, and description of the Storage Facility identifying all Carbon Dioxide Injection Wells, monitoring wells, Occupied Structures, and animal husbandry facilities within the Immediate Area.
2. Report detailing the potential health risks associated with carbon dioxide release, including exposure concentrations, duration thresholds, and potential adverse health effects.
3. Estimated worst-case surface discharge modeling in metric tons and standard cubic feet in the event of a failure of the Storage Facility to hold carbon dioxide or due to corrosion or mechanical failure of a Carbon Dioxide Injection Well or any monitoring well.
4. Carbon dioxide detection equipment capable of continuous monitoring, real-time display in parts per million (ppm), audible and visual alarms, and data logging.
5. A Mass Notification and Emergency Messaging System capable of text, phone, and electronic alerts.
6. Evacuation route mapping and procedures.
7. Provisions for mobility-impaired individuals.
8. Required respiratory protective equipment for first responders.
9. Annual emergency response training and fire suppression training for local safety agencies, identified in subsection 10 below, during the operational life of the Carbon Sequestration Project. Such training shall be provided at least once prior to the In-Service Date and thereafter on an annual basis. A minimum of one (1) joint tabletop or functional emergency-response drill involving the Project Owner or Storage Operator and the entities listed in item 1 shall be conducted annually. The Project Owner or Storage Operator shall submit written confirmation of each

training session and drill (including date, attendees, and topics covered) to the County Plan Commission Office within thirty (30) days of completion.

10. An emergency contact list of at least three (3) of the Project Owner's or Storage Operator's responsible representatives, including current names, 24-hour telephone numbers, and email addresses, who can be reached at any time for emergency response purposes. Such emergency contact list shall be provided to the appropriate local safety officials including but not limited to the following; Wabash County Homeland Security and Emergency Management Department, Sheriff's Department, Wabash County Central Dispatch, any and all responding Fire Departments, the responding law enforcement departments, County Plan Commission Office, and the Wabash County Commissioners. Such emergency contact list shall be updated immediately upon any change in personnel or contact information and immediate written notification to all such local safety agencies. On or before January 1 of each year, the Project Owner or Storage Operator shall submit to the County Plan Commission Office a signed certification confirming that all emergency contact information remains current and that all required local safety agencies have been notified of any changes made during the preceding calendar year.
11. Knox boxes, facility keys, gate keys, or keypad combinations sufficient to provide unrestricted emergency access to any Carbon Sequestration Project related facilities and wells to all local safety agencies listed in subsection 10 above. No locks, keypad codes, or access methods shall be changed without immediate written notification to all such local safety agencies. On or before January 1 of each year, the Project Owner or Storage Operator shall submit to the County Plan Commission Office a signed certification confirming that all access methods remain current and that all required local safety agencies have been notified of any changes made during the preceding calendar year.
12. A notification list containing the last known mailing address and telephone number (if provided) of each owner of record of each parcel in the immediate area. On or before January 1 of each year, the Project Owner or Storage Operator shall send via first-class mail each owner on such notification list required by this subsection the following:
 - (1) the emergency contact list required by subsection 10 above; and
 - (2) the evacuation route mapping and procedures required by subsection 6 above.On or before January 1 of each year, the Project Owner or Storage Operator shall submit to the County Plan Commission Office a signed certification confirming that all owners on such notification list have been provided the information required herein during the preceding calendar year.

27.9.4. Plan Review

All third-party professional review costs incurred by the County in reviewing emergency response plans shall be reimbursed by the Project Owner pursuant to the County Fee Schedule.

27.10 SEISMIC TESTING

27.10.1 Annual Reporting

The Project Owner or Storage Operator shall provide the County Plan Commission Office copies of a completed 3D seismic test annually while carbon dioxide injection is ongoing and during post-injection monitoring until the State of Indiana assumes ownership and responsibility of the Storage Facility.

Beginning in the third year of injection, a 4D seismic test shall be submitted once every three (3) years until the State of Indiana assumes ownership and responsibility of the Storage Facility.

Such seismic test results or reports shall be submitted to the County Plan Commission Office no later than January 1 of each calendar year.

27.10.2 Earthquake Triggered Evaluation

If, prior to the State of Indiana assuming ownership and responsibility of the Storage Facility, a confirmed earthquake of magnitude 3.0 or greater occurs within a seventy-five (75) mile radius of the Carbon Sequestration Injection Well, the Project Owner or Storage Operator shall conduct additional seismic evaluation.

Such evaluation shall be reviewed by an independent geophysicist licensed in the State of Indiana and submitted to the County Plan Commission.

Any Improvement Location Permit approved for a Carbon Sequestration Injection Well may be suspended or revoked if the County Plan Commission Director determines, based upon expert review, that continued operation will pose an unreasonable risk to public health, safety, or welfare.

All third-party professional review costs shall be reimbursed by the Project Owner or Storage Operator.

27.11 ABANDONMENT AND DECOMMISSIONING

Upon cessation of injection into the Storage Facility, the Project Owner shall:

27.11.1. Notify the County Plan Commission Office and all Affected Persons by certified mail of the cessation date no later than thirty (30) days after cessation.

27.11.2. Provide a complete, unredacted copy of the current and any revised well plugging plan approved by the EPA pursuant to 40 CFR § 146.92, unless redaction is required by law, no later than thirty (30) days after such plan is approved or revised.

27.11.3 Provide the County Plan Commission Office with a copy of any application for a Certificate of Project Completion submitted to the Department pursuant to Indiana Code § 14-39-2-13, no later than thirty (30) days after such application is submitted.

27.11.4 Provide the County Plan Commission Office with a copy of the Certificate of Project Completion issued by the Department pursuant to Indiana Code § 14-39-2-13, no later than thirty (30) days after such certificate is issued.

27.12 TRANSFER

27.12.1 A Special Exception Permit granted to a Project Owner pursuant to this Ordinance is non-transferrable. A Person shall apply for a new Special Exception Permit whenever the pore space, Carbon Sequestration Project or Storage Facility is transferred from the Project Owner to any other Person, or the pore space, Carbon Sequestration Project or Storage Facility use is materially or substantially changed or altered.

27.12.2 Any Special Exception submitted by an applicant, corporation, or LLC found to have any significant connection with any pending or otherwise unresolved violation of any environmental related statute, rule, regulation, or order of any Federal, State, or local governing body, shall be immediately denied.

a. Any significant connection with any pending or otherwise unresolved violation of any environmental related statute, rule, regulation, or order of any Federal, State or local governing body must be rectified prior to submission of a new Special Exception application.

b. A new Special Exception application shall not be accepted for review for a minimum of 90 days from the date of the annulment or until the violation is rectified, whichever is more restrictive.

27.12.3 If the Project Owner applies to the Department to transfer a carbon sequestration project permit issued to the Project Owner for which a Special Exception Permit has been granted, the Project Owner shall notify the County Plan Commission Office of such application no later than thirty (30) days after the application has been submitted to the Department.

27.12.4 If the Department approves a transfer of a carbon sequestration project permit from the Project Owner to any other Person, the Project Owner shall notify the County Plan Commission Office no later than thirty (30) days after the Department has approved the transfer.

27.13 SEVERABILITY

If any section or provision of this Chapter is declared invalid, unenforceable, vague, preempted, or unconstitutional, such decision shall not affect the validity of any remaining provisions and the remaining provisions shall remain in full force and effect.

27.14 PENALTIES, FINES, & ADDITIONAL FEES

27.14.1 Civil Penalty

Any first violation of this Chapter shall be subject to a civil penalty of \$2,500.00 per day until corrected. Any second or subsequent violation of this Chapter shall be subject to a civil penalty of \$7,500.00 per day until corrected. Each day a violation continues or occurs shall constitute a separate violation.

27.14.2 Common Nuisance

Any violation of this Chapter is a common nuisance and the Project Owner and/or Storage Operator that violates this Chapter is liable for maintaining a common nuisance.

27.14.3 Enforcement

Enforcement of this Chapter shall follow the procedures detailed in Section 25.1 of the Zoning Ordinance.

27.14.4 Regulatory Oversight Fee

An administrative fee, established by the Wabash County Fee Schedule and reasonably related to the County's administrative and oversight costs, shall be paid annually by the Project Owner or Storage Operator.

27.14.5 Monitoring Fee

Not later than March 1 of each year, the Project Owner or Storage Operator shall pay the monitoring fee, as set forth in the adopted Fee Schedule, per metric ton of carbon dioxide injected into the Storage Facility during the immediately preceding calendar year to the County. Such fees shall be used to defray the long-term monitoring of the Carbon Sequestration Project by the County.

27.15 SUSPENSION OR REVOCATION OF IMPROVEMENT LOCATION PERMIT

27.15.1 An Improvement Location Permit issued for a Carbon Sequestration Project may be suspended or revoked by the County Plan Commission Director for any of the following reasons:

- a. The Improvement Location Permit was issued due to fraud or intentional misrepresentation by the Project Owner or Storage Operator, or any of its employees, representatives, or agents.
- b. The UIC Class VI permit issued by the U.S. Environmental Protection Agency has been suspended or revoked.
- c. The carbon sequestration project permit issued by the Department has been invalidated or revoked.
- d. The Department has found that the Project Owner or Storage Operator has failed to maintain financial responsibility required by the Department's rules and regulations, or has violated I.C. 14-39 *et. seq.*
- e. The Project Owner or Storage Operator fails to submit any report or information to the County Plan Commission Office required by this Chapter.

27.15.2 If an Improvement Location Permit is suspended or revoked under this section, the Project Owner and Storage Operator shall immediately stop injecting carbon dioxide into the Storage Facility.

27.16 ADDITIONAL REPORTS

27.16.1 A Project Owner or Storage Operator shall provide the County Plan Commission Office a copy of all proof of ongoing financial responsibility filed with the Department no later than thirty (30) days after such proof of ongoing financial responsibility is filed with the Department.

27.16.2 A Project Owner or Storage Operator shall provide the County Plan Commission Office a copy of an annual report filed with the Department no later than thirty (30) days after the annual report is filed with the Department.

27.16.3 A Project Owner or Storage Operator shall notify the County Plan Commission Office of any instance of noncompliance with or revocation of a UIC Class VI permit issued by the U.S. Environmental Protection Agency not later than thirty (30) days after such instance.

27.16.4 A Project Owner or Storage Operator shall notify the County Plan Commission Office of any instance of noncompliance with or invalidity of a carbon sequestration project permit issued by the Department not later than thirty (30) days after such instance.